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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
Index No. CV 8106

-----x  
HOWARD HENRY,

Plaintiff,

- against -

WYETH PHARMACEUTICALS, INC., WALTER  
WARDROP, ANDREW SCHASCHL and MICHAEL  
McDERMOTT,

Defendants.  
-----x

July 25, 2006

3:10 p.m.

Deposition of WALTER WARDROP,  
taken by the Plaintiff, pursuant to  
Notice, held at the offices of Orrick,  
Herrington & Sutcliffe, LLP, 666 Fifth  
Avenue, New York, New York, before  
Brian Glickman, a Shorthand Reporter  
and Notary Public of the State of New  
York.

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A P P E A R A N C E S :

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LEEDS MORELLI & BROWN, P.C.

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Attorneys for Plaintiff

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One Old Country Road

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Suite 347

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Carle Place, New York 11514

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BY: STEVEN A. MORELLI, ESQ.

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ORRICK, HERRINGTON & SUTCLIFFE, LLP

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Attorneys for Defendants

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666 Fifth Avenue

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New York, New York 10103-0001

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BY: JONAS H. McQUADE, ESQ.

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HEATHER A. GLATTER, ESQ.

19

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22

ALSO PRESENT:

23

KENNETH M. O'BRIEN, ESQ.

24

25

## WARDROP

page him, the engineer on train 2 reporting to Bob Bracco was getting called at home because Mr. Henry was not responding to pages, and Mr. Colas who was the train 1 -- I'm sorry, train 2 engineer was beginning to complain that he was concerned that he's being called at home for equipment and processes that was outside of his scope, why isn't Mr. Henry responding, so that was one of the concerns that came up with calibration.

Q. Did you raise this concern with Mr. Henry?

A. Yes, I did.

Q. And what did he say about it?

A. He claimed that he answered his pager every time he was contacted and he contacted the communication department and identified a period of time where the pagers were not working.

Q. Did you ascertain if this was in fact the case that the pagers weren't working?

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A. There was a period of time where they were having problems with the pagers, yes.

Q. You indicated there was a mid-year review, this was in 2003?

A. That is correct.

Q. Is that in writing?

A. Yes, it is.

Q. Prior to 2003, did you do any written mid-year reviews for Mr. Henry?

A. I don't recall when we started the practice of documenting the mid-year reviews. It may have been a verbal review, but I'm not sure.

Q. Do you have any records that would reflect whether or not you gave Mr. Henry a written review prior to 2003?

A. We have the documentation for the final review.

Q. I'm talking about the mid-year review.

A. If there was one written, I would have a copy of it.

unartman

WARDROP

Q. If Mr. Henry bid for a position in the Pearl River plant you would be contacted; is that correct?

A. That would be at the discretion of the person interviewing. I don't know that every time someone has an interview. Unless someone tells me, I wouldn't know.

Q. So you have no idea as a matter of course how many positions Mr. Henry put in a bid in for?

A. No.

Q. In 2003 you had a conversation with Mr. Henry mid-year about his performance and you documented that conversation, didn't you?

A. That is correct.

Q. You put it in writing?

A. Yes.

Q. Did you give Mr. Henry a copy of it?

A. Yes, I did.

Q. Did he sign it?

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A. I believe he did.

Q. I'm going to show you a document that's been previously marked as Henry Exhibit 13, and I would ask you if you can identify that document.

A. Yes.

Q. What is it?

A. This is the mid-year review.

Q. Does this document refresh your recollection as to whether or not Howard Henry signed the document?

A. I believe he signed it. This could be an electronic copy that I forwarded to him which would not be signed. We didn't sign and scan. This may have been an electronic word document.

Q. Do you know if a signed copy exists somewhere in your records?

A. I don't know at this time.

Q. Do you know if you signed the document?

A. My recollection is that we both signed it, but I don't know if I

1. WARDROP

2. have the signed copy. I would have to  
3. look.

4. MR. MORELLI: I would ask if  
5. a signed copy of this document  
6. exists, I would like a copy of it.

7. (Information requested.)

8. Q. Mr. Wardrop, was this  
9. document prepared before or after the  
10. meeting with Mr. Henry?

11. A. It was prepared before.

12. Q. Okay. It says on this  
13. document at the top date conducted  
14. 9/3/03. In the past it says conducted.

15. Does that refresh your  
16. recollection as to whether or not this  
17. document was prepared before or after  
18. the meeting?

19. A. I prepared the document  
20. before and brought it with me to the  
21. meeting.

22. Q. You're sure about that?

23. A. It's my recollection that I  
24. prepared this and brought this to the  
25. meeting and reviewed it with him.

1. WARDROP

2 Q. Are you as sure about that as  
3 you're sure that he signed this  
4 document?

5 A. It was my practice to prepare  
6 these documents in advance and bring  
7 them to the review to review with the  
8 individual. I didn't go -- I did not  
9 conduct verbal performance reviews and  
10 then write the document after, so --

11 Q. Well, on this particular case  
12 you are saying that the meeting took  
13 place on September 3rd, '03?

14 A. That's the date that I  
15 documented, yes.

16 Q. I direct your attention to  
17 page two of the document?

18 A. Okay.

19 Q. It says Howard works  
20 scheduled overtime but I received  
21 reports that he did not respond to  
22 pages.

23 You see that at the bottom of  
24 the page?

25 A. Yes.

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Q. Do you see response thereafter?

A. Yes.

Q. Do you see in that particular response on 9/4/03, "I received a message from Carol Burke"?

A. Yes.

Q. Isn't that after the meeting?

A. Yes, it was. That's why I revised this with the responses. The original bullet points were the things that I reviewed with Mr. Henry at the sit-down. He got back to me with his responses to those concerns which I added to the document, so we had them captured in the record.

Q. So this entire document was not discussed with Mr. Henry at the meeting; is that correct?

MR. MCQUADE: His version.

Q. Isn't it a fact that you prepared this document after the meeting?

A. No, it's not true. I revised

1. WARDROP

2 it after the meeting to include his  
3 responses.

4 Q. This is a document, sir, it  
5 is a two-page document. Isn't it a  
6 fact that this two-page document was  
7 prepared after the meeting? It's two  
8 pages?

9 MR. MCQUADE: I object to  
10 the tone. I think there is --

11 MR. MORELLI: All right, the  
12 document speaks for itself.

13 MR. MCQUADE: Do you want to  
14 ask him about the version of the  
15 document?

16 MR. MORELLI: I know what  
17 questions I'm asking.

18 Q. This mid-year review that you  
19 say you had prepared prior to the  
20 meeting with Mr. Henry, did you show  
21 this to anyone else before you showed  
22 it to him -- you allegedly showed it to  
23 him?

24 A. Not that I recall.

25 Q. Did anybody else participate

WARDROP

in this particular review other than  
yourself?

A. Not that I recall.

MR. MCQUADE: Objection.

Q. Did you have a discussion  
with other managers prior to preparing  
this review as you do with the end of  
the year reviews?

MR. MCQUADE: Objection.

MR. MORELLI: I'll withdraw  
the question.

Q. At the end of the year you  
have reviews that are discussed with  
other managers; is that correct?

A. That is correct.

Q. With respect to this mid-year  
review of Howard Henry, did you discuss  
it with anyone else prior to giving it  
to him?

A. Not that I recall.

Q. Did you discuss it with  
anyone from human resources?

A. Not that I recall.

Q. Was anyone present when you

WARDROP

1  
2 gave this to him other than yourself?

3 A. No.

4 Q. Subsequently you gave Mr.  
5 Henry a performance evaluation for the  
6 year 2003, that's correct?

7 A. Yes.

8 Q. And that was done when?

9 A. Mid-December.

10 Q. According to the mid-year  
11 evaluation that was done in September;  
12 is that correct, September of '03?

13 A. Yes.

14 Q. So some three months later  
15 you did the end of the year review?

16 A. That is correct.

17 Q. And in preparing this end of  
18 the year review, did you discuss that  
19 particular review with other managers?

20 MR. MCQUADE: Objection.

21 You can answer the question  
22 if you can.

23 A. The only person that I may  
24 have -- would have shared this document  
25 with would be Joanne Rose, if she had

1. WARDROP

2. A. I did.

3. Q. You also testified about the  
4. organizational cascade that occurred at  
5. the Pearl River facility in 2003.

6. Were you affected in any way  
7. by the organizational cascade?

8. A. Yes, I was.

9. Q. How were you affected?

10. A. I was reassigned at the same  
11. time.

12. Q. What position were you  
13. reassigned into?

14. A. I was reassigned to  
15. department head for train 2.

16. Q. And as part of the  
17. organizational cascade when you were  
18. reassigned into the department head  
19. train 2 position, did you have an  
20. opportunity to select the employees who  
21. would be working under you in train 2?

22. A. Yes, I did.

23. Q. Were there any engineers that  
24. would be working under you in train 2?

25. A. Yes.

WARDROP

Q. How many engineers reported up to you in train 2, how many positions were available?

A. One.

Q. And who did you select for that position?

A. Jean Colas, J-E-A-N, C-O-L-A-S.

Q. Do you know Mr. Colas' race?

A. Yes.

Q. And what is it?

A. Black.

Q. Why did you select Mr. Colas?

A. Because he was a highly qualified engineer. I knew him and he would provide stability for the train. As I'm new, he would provide stability and he was a high performer.

MR. MCQUADE: I have nothing further.

MR. MORELLI: I have a couple further questions.

CONTINUED BY

MR. MORELLI:



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position?

A. No, he's not.

Q. Where is he now?

A. He works in vaccines.

Q. Was he promoted?

A. Yes.

Q. What was he promoted to, what position?

A. It is -- I believe it is a senior engineer position.

Q. Do you know if he bid for that position?

A. I was not involved at that time. I don't know.

Q. Were you asked to give a recommendation with respect to his getting that promotional position?

(Continued to following page.)

1.  
2. A. No, I was not.

3. MR. MORELLI: I have no more  
4. questions thank you.

5. MR. MCQUADE: I have nothing  
6. further.

7. (Time noted: 4:45 p.m.)  
8.  
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12. -----  
13. WALTER WARDROP  
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15. Subscribed and sworn to before me  
16. this ----- day of -----, 2006.  
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